

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ISRAEL CALLERO MENDEZ, 01679093,	)	
Petitioner,	)	
	)	
v.	)	No. 3:14-CV-2973-B (BT)
	)	
LORIE DAVIS, Director, Texas	)	
Dept. Of Criminal Justice, Correctional	)	
Institutions Division,	)	
Respondent.	)	

**ORDER ACCEPTING FINDINGS, CONCLUSIONS AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions and a recommendation in this case. Plaintiff filed objections, and the District Court has made a *de novo* review of those portions of the proposed findings and recommendation to which objection was made. The objections are overruled, and the Court ACCEPTS the Findings, Conclusions and Recommendation of the United States Magistrate Judge.


IT IS THEREFORE ORDERED that: (1) the Fed. R. Civ. P. 60(b) motion for relief from judgment based on the Court's denial of Petitioner's second motion for extension of time to file an appeal is DENIED; and (2) Petitioner's remaining claims are construed as filed pursuant to 28 U.S.C. § 2254 and are TRANSFERRED to the United States Court of Appeals for the Fifth Circuit. See 28 U.S.C. § 2244(b)(3); 28 U.S.C. § 1631.<sup>1</sup> The Clerk's Office is directed to open a new civil action, nature of suit 530, with direct assignment to District Judge Boyle and Magistrate Judge Rutherford

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<sup>1</sup>An order transferring a successive application to the court of appeals is not a final order requiring a certificate of appealability. See *United States v. Fulton*, 780 F.3d 683, 688 (5<sup>th</sup> Cir. 2015).

and terminate the motion in this case.

SO ORDERED this 1<sup>st</sup> day of August, 2018.



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JANE J. BOYLE  
UNITED STATES DISTRICT JUDGE